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SUPREME COURT OF THE UNITED STATES.

No. 107.

McKEAN BUCHANAN, PLAINTIFF IN ERROR,

vs.

MARY ANN ANDERSON.

IN ERROR TO THE CIRCUIT SUPERIOR COURT FOR THE COUNTY OF NORFOLK, STATE OF VIRGINIA.

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J. & G. S. Gideon, printers.

Pleas before the honorable Richard H. Baker, judge of the circuit superior court of law and chancery for Norfolk county, at the court-house of said county, on Thursday, the 10th day of November, in the year of our Lord one thousand eight hundred and forty-two.

Be it remembered, that, at another day, to wit, in the clerk's office of our said circuit superior court of law and chancery for Norfolk county, on the 29th day of March, 1842, came McKean Buchanan, by Robert C. Nicholas, esq., his attorney, and filed his petition, with an order thereon endorsed, awarding a supersedeas against Mary Ann Anderson; which petition, with the endorsement thereon, is in the words and figures following, to wit:

To the honorable Richard H. Baker, judge of the circuit superior court of law and chancery for the county of Norfolk.

The petition of McKean Buchanan respectfully represents: That he is aggrieved by a final judgment of the county court of Norfolk county, rendered on the 15th day of November, 1841, against him as garnishee, in an attachment theretofore issued by a justice of the peace of said county against the estate of Benjamin Davis, for a debt of $42 due by said Davis to a certain Mary Ann Anderson. A transcript of the record of the judgment complained of is herewith presented, by which it will be perceived that said judgment was rendered against your petitioner for the sum of $42 on account of moneys acknowledged by him to be in his hands *as purser of the United States*, (and not otherwise,) and which appeared upon his books, *as purser aforesaid*, to be due to the said Benjamin Davis. Your petitioner is advised that said judgment is erroneous, on various grounds, but he will content himself for the present with assigning the following errors, viz: The money in his hands, on account of which said judgment was pronounced against *his* as garnishee, was the money of the United States, and not of the said Benjamin Davis, and could never become *his* money, except in the mode prescribed by law and the regulations of the Navy Department; that the debt due to said Davis for services was a debt due by the United States, and not by your petitioners, and was therefore not liable to the attachment.

And for the said errors he prays a writ of supersedeas to the judgment aforesaid.

McKEAN BUCHANAN,
By his counsel.

I, Robert C. Nicholas, an attorney practising in the circuit superior court of law and chancery for the county of Norfolk, do certify,

that in my opinion there is sufficient matters for reversing the judgment complained of in the foregoing petition.

March 25*th*, 1842. R. C. NICHOLAS.

A supersedeas is awarded to the judgment in the within record, upon the petitioner, or some other person, entering into bond, with sufficient security, in the clerk's office, in a penalty of double the amount recovered against the petitioners, conditioned according to law. P. N. NICHOLAS,

A Judge of the General Court, and for the 21*st circuit.*

March 25*th*, 1842.

To the clerk of the superior court of law and chancery for Norfolk county.

The following is a true copy of the record filed with and referred to in the foregoing petition:

Know all men by these presents, ——— are held and firmly bound to Benjamin Davis in the sum of $84, to be paid to the said Benjamin Davis, his certain attorney, his executors, administrators or assigns; for the true payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this 12th of November, 1841.

The condition of the above obligation is such, that whereas the above bound Mary Ann Anderson hath this day applied to ——— a justice of the peace for the county of Norfolk, for an attachment against the estate of Benjamin Davis above named for the sum of $42, which attachment hath been granted on previously entering into this bond, returnable to the next county court; if, therefore, the said Mary Ann *Davis* shall satisfy and pay all costs which shall be awarded against her to the said Benjamin Davis, in case the said Mary Ann Anderson shall be cast in this suit, and also all damages which shall be recovered against her, the said Mary Ann Anderson, for her suing out the said attachment, then the above obligation to be void, else to remain in full force.

MARY ANN ANDERSON, [SEAL.]
MARGER SHULY. [SEAL.]

Signed, sealed, and delivered, before,

NORFOLK COUNTY, *to wit:*

To Thos. R. Jordan, constable of said county.

Whereas Mary Ann Anderson hath this day complained before me, ——— a justice of the peace for the said county, that Benjamin Davis is indebted to her in the sum of forty-two dollars by account; and that the said Benjamin Davis has removed, or absconds and conceals himself, so that the usual process of law cannot

be served on him; and the said Mary Ann Anderson having given bond and security according to law: These are, therefore, in the name of the Commonwealth, to require you to attach the estate of the said Benjamin Davis, or so much thereof as shall be of value sufficient to satisfy the said sum of $42, and the costs, and such estate, so attached in your hands, to secure or so to provide, that the same may be liable to further proceedings thereon to be had, at the next court, to be held for this county, and that you then and there make return how you have executed this warrant.

Given under my hand and seal, this 12th of November, 1841.

JOHN NASH, *J. P.* [SEAL.]

NORFOLK COUNTY, *sct:*

Pursuant to the within warrant I have attached, by levying on the goods and chattels of the within named Benjamin Davis, in the hands of McKean Buchanan, or so much thereof as may be sufficient to satisfy the said debt and costs, and have summoned the said garnishee to appear at the next county court, to be held for this county, on Monday next, the 15th of November, 1841.

THOS. R. JORDAN, *Constable.*

At a court held for Norfolk county, the 15th day of November, 1841.

MARY ANN ANDERSON vs. BENJAMIN DAVIS. } Attachment.

Mary Ann Anderson having taken out an attachment, according to law, against Benjamin Davis, an absconding debtor, and Thomas R. Jordan, a constable of this county, to whom the said warrant of attachment was directed, having made return that he had executed the said attachment on the goods, chattels, and moneys of the said Benjamin Davis, in the hands of McKean Buchanan, and summoned him as garnishee, this day came, as well as the plaintiff, by *his* attorney, as the said garnishee, in his proper person, who, being sworn, declared, that he had in his hands, and that there was due upon his books, *a* purser of the United States ship Constitution, at the time of the service of the said attachment, as well as at the present time, the sum of one hundred and seventeen dollars and nineteen cts., and no more; and the said defendant not appearing, though solemnly called, and it appearing, by the testimony of a witness, that the defendant is indebted to the plaintiff in the sum of forty-two dollars; it is considered by the court that the plaintiff recover against the defendant the said sum of forty-two [dollars,] and her costs by her in this behalf expended; and it is further considered, that the plaintiff recover against the said McKean Buchanan, the aforesaid sum of forty-two dollars and her costs, of the money in

his hands, admitted by the said Buchanan as aforesaid to be in his hands, belonging to the said Benjamin Davis.

Costs—Clerk - - - - - -	$1 93
Attorney - - - - - -	2 50
Const. - - - - - -	84
	$5 27

Upon which judgment an execution of fi. fa. issued on the 2d day of December, 1841, against the goods and chattels of the garnishee.

The following is a copy of the account upon which the foregoing proceedings are founded.

1841. *Benjamin Davis to Mary Ann Anderson*, DR.

Nov.	9	To this amount paid Stephen Griffin for coat, - - - - - -	$14 00
"	"	" cash loaned - - - -	19 00
"	"	" 1½ week's board, - - -	6 00
"	"	" 1 linen shirt, - - - -	2 50
"	"	" bar bill, - - - - -	50
			$42 00

Copy, record.—Test: ARTHUR EMMERSON, JR.,
D'y Clerk.

And at another day, to wit: at a special term of the circuit superior court of law and chancery, held for Norfolk county, at the court-house, on the 20th day of July, 1842.

McKEAN BUCHANAN, plff.,
against
ANN ANDERSON, deft.

Upon supersedeas to a judgment of the county court of Norfolk, rendered on the 15th day of November, 1841, upon an attachment against Benjamin Davis, an absconding debtor, in favor of Ann Anderson, whereby it was considered that the plaintiff recover against McKean Buchanan, purser of the United States navy, the sum of forty-two dollars, and her costs, of the money in his hands, admitted by the said Buchanan as aforesaid to be in his hands, belonging to the said Benjamin Davis.

By consent of the parties, by their attorneys, it is ordered that this suit be continued till the next court.

And now, at this day, to wit, at a circuit superior court of law and chancery, continued by adjournment, and held for the said

county of Norfolk, at the court-house, on the same day and year first herein before mentioned, to wit, on Thursday, the 10th day of November, 1842.

This day came the parties, by their attorneys, and thereupon the transcript of the record of the judgment aforesaid being seen and inspected, it seems to the court here, that there is no error in the said judgment. Therefore it is considered that the same be affirmed, and that the defendant recover against the plaintiff damages, according to law, for retarding the execution thereof, and her costs by her about her *her* defence in this behalf expended.

Defendant—Costs	-	-	-	$4 07
Plaintiff—Costs	-	-	-	6 99

STATE OF VIRGINIA, *Norfolk county, to wit :*

I, Arthur Emmerson, clerk of the circuit superior court of law and chancery for the said county of Norfolk, in the State of Virginia, do hereby certify, that the foregoing is a true transcript of the record and proceedings upon a supersedeas lately depending in the said circuit superior court of law and chancery, between McKean Buchanan, plaintiff, and Ann Anderson, defendant, with all things touching the same, as fully and wholly as they now exist among the records of my office.

In testimony whereof, I hereto set my hand, and annex the seal of the said court, this sixteenth day of May, one thousand
[SEAL.] eight hundred and forty-three, in the 67th year of the Commonwealth.

ARTHUR EMMERSON, *C. C.*

VIRGINIA, *Norfolk county, to wit :*

I, Richard H. Baker, only judge of the circuit superior court of law and chancery for the said county of Norfolk, in the State of Virginia, do certify, that Arthur Emmerson, who hath given the preceding certificate, is clerk of the said court, and *and* that his said attestation is in due form.

Given under my hand, this sixteenth day of May, one thousand eight hundred and forty-three, in the 67th year of the Commonwealth.

RICH'D H. BAKER.

UNITED STATES OF AMERICA, *to wit :*

The President of the United States, to the honorable the judge of the circuit superior court of law and chancery for the county of Norfolk, and State of Virginia, greeting :

Because in the record and proceedings, as also in the rendition of the judgment, of a plea which is in the said circuit superior court of law and chancery for the said county of Norfolk and State aforesaid, before you, between McKean Buchanan, plaintiff, and

Mary Ann Anderson, defendant, upon a writ of supersedeas to a judgment of the county court of Norfolk, the said circuit superior court of law and chancery being the highest court in the said State in which a decision could be had in said suit, a manifest error hath happened, to the great damage of the said McKean Buchanan, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of January next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom [of] the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the ninth day of May, in the year of our Lord one thousand eight hundred and forty-three.

HENRY GIBSON, [SEAL.]
Clerk of the circuit court of the United States for the fourth circuit and district of Virginia.

Allowed by me, P. V. DANIEL.

United States of America to Mary Ann Anderson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of January next, pursuant to a writ of error filed in the clerk's office of the circuit superior court of law and chancery, for the county of Norfolk, in the State of Virginia, wherein McKean Buchanan is plaintiff in error, and Mary Ann Anderson is defendant in error, to show cause, if any there be, why judgment rendered against McKean Buchanan, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witnesseth the honorable Peter V. Daniel, one of the justices of the Supreme Court of the United States, this 23d day of May, in the year of our Lord one thousand eight hundred and forty-three.

P. V. DANIEL.

STATE OF VIRGINIA, *city of Richmond, to wit:*

On this twenty-first day of July, in the year 1843, Edmund Christian personally appeared before the subscriber, Francis Wecker, a justice of the peace in and for the said city, and being sworn on